

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Revision of the Commission's Rules to)	WT Docket No. 05-287
Ensure Compatibility with Enhanced)	
911 Emergency Calling Systems)	
)	
Alltel Corporation Petition for Limited)	
Waiver of Section 20.18(g)(1)(v) of the)	
Commission's Rules)	

**COMMENTS OF CTIA – THE WIRELESS ASSOCIATION®
ON ALLTEL CORPORATION PETITION FOR LIMITED WAIVER**

CTIA – The Wireless Association® (“CTIA”)¹ submits these comments in support of Alltel Corporation’s (“Alltel”) Request for Limited Waiver of the December 31, 2005 Enhanced 911(“E911”) implementation deadline.² For the reasons set forth by CTIA and the Rural Cellular Association (“RCA”) in their Joint Petition,³ the Commission should suspend the December 31, 2005 deadline for 95 percent penetration of location-capable handsets, and provide Alltel additional time to meet the penetration threshold.⁴

¹ CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, broadband PCS and ESMR, as well as providers and manufacturers of wireless data services and products.

² Alltel Corporation Petition for Limited Waiver, CC Dkt. No. 94-102 (Sept. 30, 2005) (“Alltel Petition”). See Section 20.18(g)(1)(v) of the Commission’s Rules (requiring Alltel to achieve 95 percent penetration of location-capable handsets by December 31, 2005).

³ Joint Petition of CTIA-The Wireless Association and the Rural Cellular Association for Suspension or Waiver of the Location-Capable Handset Penetration Deadline, CC. Dkt. 94-102 (June 30, 2005) (“CTIA/RCA Petition”).

⁴ Alltel seeks an additional 18 months to achieve 95 percent penetration of location capable handsets. Alltel Petition at 6, 14.

I. GRANTING LIMITED RELIEF TO ALLTEL SERVES THE PUBLIC INTEREST

CTIA supports the Commission's wireless E911 goals, including the ubiquitous deployment of Phase II location capabilities. Alltel has been vigilant in its efforts to comply with the Commission's rules, has invested significant resources to meet the Commission's interim benchmarks for deployment of handsets with location capabilities, and has instituted aggressive marketing campaigns to encourage handset replacement.⁵ Alltel has made enormous progress in achieving the interim benchmarks laid out in section 20.18(g), but despite this progress Alltel has faced extensive complications beyond its control which will prevent it from meeting the requirement that it achieve 95 percent penetration of location-capable handsets by December 31 of this year.⁶

Alltel seeks an extension of the December 31 deadline as a result of considerable difficulties it has encountered in upgrading customers to ALI-capable handsets.⁷ Alltel anticipates it will achieve the 95 percent benchmark by June 30, 2007 and seeks to defer its obligation to comply with the penetration rule until that date.⁸

In support of its request, Alltel has identified the following roadblocks to meeting the Commission's 95 percent penetration rule: customer and handset churn rates,⁹ reluctance of low-

⁵ See Alltel Petition at 5; ALLTEL Communications, Inc. E911 Twelfth Quarterly Report, CC Dkt. 94-102, at 1 (Aug. 1, 2005) ("Alltel Quarterly Report"). The Commission itself has "recognized that the E911 deployment schedule was aggressive in light of the need for further technological advancement . . ." *Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Phase II Compliance Deadlines for Non-Nationwide CMRS Carriers*, Order to Stay, 17 FCC Rcd 14841, 14842 ¶ 5 (2002) ("*Non-Nationwide Stay Order*") (citing *Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, FOURTH MEMORANDUM OPINION AND ORDER, 15 FCC Rcd 17442, 17457-58 (2000)).

⁶ 47 C.F.R. § 20.18(g). See Alltel Petition at ii-iii, 7-8.

⁷ See Alltel Petition at 7-9.

⁸ See *id.* at 6, 14.

⁹ See *id.* at 7-8.

volume and rural subscribers to upgrade their handsets,¹⁰ and the lack of Public Safety Answering Point (PSAP) Phase II readiness.¹¹

Alltel has been diligent in its compliance efforts, and has substantially complied with the interim requirement that all new digital handsets activated on its network are location capable.¹² Despite these efforts, consumer behavior will prevent it from meeting the December 31 deadline for compliance with the 95 percent location capable handset penetration requirement. Contrary to the Commission's assumptions regarding churn and handset replacement, it has become clear that the majority of carriers will be unable to satisfy the 95 percent penetration threshold by the end of this year.¹³ Notwithstanding promotional campaigns and other carrier efforts, a greater than anticipated percentage of wireless consumers have demonstrated their reluctance to surrender their non-location capable handsets for GPS-equipped phones.

High satisfaction levels and the nature of the Alltel's subscriber base which serves many low-volume and analog customers living in rural America, have resulted in considerably lower churn than expected by Alltel or the Commission.¹⁴ Consumer resistance to swapping out handsets is especially true for Alltel's subscribers who live in sparsely populated rural areas, where many wireless customers use three watt analog phones to overcome coverage obstructions

¹⁰ *See id.* at 8-9.

¹¹ *See id.* at 18.

¹² *See*, Alltel Quarterly Report at 3.

¹³ *See* Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, THIRD REPORT AND ORDER, CC Dkt. No. 94-102, at ¶ 51 (1999) ("Third Report and Order"). *See also* Verizon Wireless asked the FCC to waive until June 30, COMMUNICATIONS DAILY (Oct. 18, 2005) (reporting that the carrier requested waiver until June 30 and expects to reach at least 93% GPS handset penetration by Dec. 31); Sprint Nextel Corporation Request for Limited Waiver, CC Docket No. 94-102 (Sept. 29, 2005) (Sprint Nextel Request); Request for Waiver by SouthernLINC Wireless, CC Dkt. 94-102 (July 26, 2005); Cellular South Licenses, Inc., Request for Limited Waiver and Extension of the Handset Penetration Deadline of the Commission's Phase II E911 Rules, CC Dkt. 94-102 (Sept. 20, 2005).

¹⁴ *See* Alltel Petition at 8-9.

and increase the range of service.¹⁵ Regardless of Alltel's aggressive marketing campaigns and discounted new phones with Phase II location capabilities, customers are often unwilling to trade in their powerful analog phones for a digital handset that, even with a car kit, will offer less coverage.¹⁶ Moreover, based on the behavior of its customers to date, Alltel anticipates that the handset replacement rate of its installed base will decelerate even further despite the carrier's diligent efforts.¹⁷

As the National Association of Regulatory Utility Commissioners ("NARUC") has observed in its comments in support of the CTIA/RCA Petition, there are legitimate reasons why the Commission should not enforce its rules in a manner that forces consumers to give up their handsets unwillingly.¹⁸ Accordingly, the public interest will be served by the grant of limited relief to ensure that wireless customers who do not want to replace their non-location capable handsets are not needlessly burdened. CTIA urges the Commission to extend the December 31, 2005 E911 implementation deadline for Alltel. For the reasons set forth in the CTIA/RCA Petition, CTIA also requests that the Commission extend the penetration deadline for all wireless carriers that have shown a good faith effort to comply with the rules by satisfying the 100 percent digital activation requirement.¹⁹

¹⁵ *See id.*

¹⁶ *See* Alltel Petition at 9-10, 12-14.

¹⁷ *See id.* at iii.

¹⁸ In its comments, NARUC maintains that strict adherence to current E911 rules would mean "[m]any wireless customers in rural America will not immediately benefit" when required to "involuntarily surrender their otherwise safe, reliable and usable wireless handsets" and the level and availability of wireless E911 service to certain rural wireless customers might in fact decrease. *See* NARUC, Initial Comments of the National Association of Regulatory Utility Commissioners Supporting the Joint Petition for Suspension or Waiver of the Location-Capable Handset Penetration Deadline, WT Dkt. 05-288 at 5 (Oct. 17, 2005) ("NARUC E911 Waiver comments").

¹⁹ *See* CTIA/RCA Petition at 1. 47 C.F.R. § 20.18(g)(iv). *See also* NARUC E911 Waiver comments.

II. ALLTEL HAS DEMONSTRATED GOOD CAUSE TO GRANT LIMITED RELIEF OF THE HANDSET PENETRATION DEADLINE

Wireless carriers that have made a good faith effort to comply with the Commission's rules should not be penalized for factors the Commission and carriers could not have anticipated when the handset penetration deadline was established. As Alltel describes in its petition, mass communications campaigns offering huge incentives to encourage customers to exchange their phones for A-GPS handsets have been underway to combat customer reluctance to upgrade.²⁰ Clearly, Alltel's inability to meet the penetration deadline is not a result of its failure to work conscientiously to roll out Phase II service but rather consumers' satisfaction with their service and handsets which makes them resistant to change.

CTIA respectfully requests that the Commission grant Alltel's limited waiver as the carrier has demonstrated good cause. Alltel's requested relief is specific, limited and narrow in scope, in that it only addresses the upcoming December 31 deadline, and seeks no other extensions or waivers of the FCC's rules.²¹ Alltel is on track to satisfying the 95 percent penetration benchmark,²² and asks for an additional eighteen months to come into full compliance with the Commission's rules. During the period, Alltel has pledged to continue to deploy Phase I and II services and to participate in development of E911 technology while conducting aggressive marketing campaigns to increase handset upgrades as well as extensively working with the public safety community on E911 issues.²³

²⁰ See Alltel Petition at 12-14.

²¹ See *id.* at 10.

²² Alltel anticipates that well over 8 million of its approximately 10 million subscribers and roughly 85% of its pre-merger subscriber base will have ALI-capable handsets by December 31, 2005. See *id.* at 17; Alltel Quarterly Report at 3-5.

²³ See Alltel Quarterly Report at 5; Alltel Petition. at 12-13.

CONCLUSION

For the foregoing reasons, CTIA supports Alltel's request for limited waiver seeking relief of the Commission's 95 percent penetration rule. CTIA also advocates suspension of the ALI-capable handset penetration deadline for all similarly situated wireless carriers whose digital wireless activations are 100 percent location-capable as of December 31, 2005.

Respectfully submitted,

CTIA - The Wireless Association™

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CERTIFICATE OF SERVICE

I, Marlea Leary, do hereby certify that on this 21st day of October 2005, I caused copies of the foregoing **COMMENTS** to be delivered to the following by electronic mail:

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